

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-8005

MARK JAMES BRANHAM,

Petitioner - Appellant,

versus

STATE OF SOUTH CAROLINA; HENRY MCMASTER,
Attorney General for South Carolina,

Respondents - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Beaufort. Henry M. Herlong, Jr., District
Judge. (CA-04-1355-9-20-BG)

Submitted: April 8, 2005

Decided: April 21, 2005

Before KING and GREGORY, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Dismissed by unpublished per curiam opinion.

Mark James Branham, Appellant Pro Se. William Edgar Salter, III,
OFFICE OF THE ATTORNEY GENERAL OF SOUTH CAROLINA, Columbia, South
Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Mark James Branham seeks to appeal the district court's order accepting the recommendation of the magistrate judge and dismissing as untimely his petition filed under 28 U.S.C. § 2254 (2000). The order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that his constitutional claims are debatable and that any dispositive procedural rulings by the district court are also debatable or wrong. See Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir. 2001). We have independently reviewed the record and conclude that Branham has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED